Carbon offset regulations

BUSA submission to National Treasury

Consultation Workshop

November 2016

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General comments

- Draft regulations and Explanatory Memorandum reflect significant differences in approach
- Previous comments on policy paper not taken into account in draft regulations
- Need for regulations to be clearly aligned to the provisions in the Bill
- Essential that Bill and regulations are published simultaneously
- Operational system to be aligned to regulations

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Terminology and drafting

- Definitions not in line with international standards
- Project and standard used interchangeably
- Number of definitions need to be included
- Number of inconsistencies to be remedied

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Legislative basis for institutional arrangements

- The legal basis for extending the legal mandate of an entity established by NEMA being extended by National Treasury legislation needs to be explained

- NEMA regulations should also be amended to give effect to the change

- Treasury delegation of power to Minister of Energy also not considered proper

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Legislative basis (2)

- Administrator cannot introduce its own requirements; must only apply the provisions of the regulations

- All requirements to be complied with must be in the regulations

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Institutional arrangements

- Effectiveness of DNA has not been consistently demonstrated
- Potential for additional capacity clearly limited
- Operating system needs to be aligned with provisions in regulation
- Registry should be located separately from the administration

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Approved standards

- Significant challenges face project proponents in respect of the three approved standards
- Generally biased towards large projects which are more able to afford high transaction costs
- The inclusion of carbon offsets in legislation will have an impact on the SA market for carbon credits
- Other standards particularly those operating in South Africa should not be excluded
- Clear set of criteria for approval of standards needs to be developed

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Approved standards (2)

- Current list of standards should be extended on the basis of the criteria in the revised version
- Provision should be made in the regulations for additional standards to be approved in the future
- Responsibility for this approval should be the Minister of Finance not Minister of Energy

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Eligibility

- Regulations only make provision for projects to comply with approved standards and located in South Africa
- The explanatory memorandum contemplates additional criteria which also appear to have been incorporated into the operating system
- The concept of compliance with “approved standards” requires only demonstration of that compliance; no other criteria are needed

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Eligibility (2)

- Geographic location needs to be discussed
- Difference between ownership of activity and activity
- Inclusion of REIPP was subject to further discussion – what was the outcome?
- Scope 2 energy projects should be eligible

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Timing

- Timing provisions need to be reviewed
- Validity of credits must be related to tax period
- Need to recognize the timeframes in approved standards
- Turnaround times for all required responses from government including DNA must be included in regulations

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Further discussion required

- Management of registry
- Eligibility criteria
- Even handed approach to approved standards

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